THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 24905 of 2005

Dated: 28.09.2006

Between:

The Depot Manager, A.P.S.R.T.C., Nuzvid Depot, Nuzvid,
Krishna District and others.

.... PETITIONERS

AND

Sardar Khan, Ex. Conductor, Grade-II, E.36350, C/o Avula Nancharaiah,
Gudur, Machilipatnam, Krishna District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 24905 of 2005

Order:

Questioning the order, dated 25.07.2005 passed by the Labour Court, Guntur, in M.P. No. 54 of 2004, the petitioners-Corporation filed the present writ petition.

The 1st respondent, while working as Conductor with the petitioners-Corporation, was removed from service on 24.08.1992 on certain cash and ticket irregularities. Against the said removal order, the 1st respondent raised an industrial dispute in I.D. No. 80 of 1995, and the Labour Court, Hyderabad, by award dated 21.09.1995, directed the petitioners-Corporation to reinstate the

1st respondent into service without back wages but with continuity of service from 03.05.1991. In pursuance thereof, the petitioners-Corporation, reinstated the 1st respondent into service on 15.11.1995. Thereafter, the 1st respondent submitted his resignation on 14.05.2001, and after that, he filed an application in M.P. No. 54 of 2004, under Section 33 C (2) of the Industrial Disputes Act, 1947, claiming notional increments, and the Labour Court, by order dated 25.07.2004, allowing the said application in part, held as hereunder:

> "In the result, the petition is partly allowed. The pay of the petitioner shall be fixed after releasing notional increment on 03.06.1992, fix his pay in the revised pay scales on 01.04.1993, release notional increments on 03.06.1993, 03.06.1994, 03.06.1995 and 03.06.1996. His pay shall be fixed in the revised pay scales on 01.04.1997. His increment shall be postponed to 29.07.1997 due to suspension period from 13.03.1997 to 07.05.1997 and the increment due on 29.07.1997 and 29.07.1998 shall be withheld permanently due to punishment. His increment due on 29.07.1999 shall be restored on 29.07.2000. There are punishments of postponement of

increments thereafter. He resigned on 14.05.2001. Arrears of pay shall be paid to the petitioner within two months."

Aggrieved by the aforesaid order of the Tribunal, the petitioners-Corporation filed the present writ petition.

The main contention of the learned Standing Counsel for the petitioners-Corporation is that unless the Labour Court while ordering reinstatement grants relief of continuity of service and back wages, the employee is not entitled for notional increments, and as such, the order of the Labour Court granting notional increments to the 1st respondent is illegal and arbitrary, and in support of his contention, he relied on a judgment of the apex Court in ***APSRTC v. Narsa Goud***[1].

On the other hand, learned counsel for the 1st respondent contends that though the 1st respondent is not entitled for notional increments, he is entitled to the benefit of annual increment as on 03.06.1992, because he accrued the increment while he was in service and much before he was removed from service by order dated 24.08.1992. He further submits that from 01.04.1993 to 01.04.1997, recommendations of two pay revision commissions were introduced to the RTC employees, and since the 1st respondent was in service till 14.05.2001, he is also entitled to the benefits of the said recommendations of the two pay revision commissions.

Heard the learned Standing Counsel for the petitioners-Corporation and the learned counsel for the 1st respondent-workman.

In ***APSRTC v. Narsa Goud*** (1 Supra), the apex Court held that unless the Labour Court grants a relief with continuity of service and attendant benefits, the employee will not be entitled for notional increments. In the instant case, since the Labour Court, while directing reinstatement of the 1st respondent into service, has not granted any attendant benefits, as rightly contended by the learned Standing Counsel for the petitioners-Corporation, the

1st respondent is not entitled to any notional increments, as the Labour Court committed an error in granting notional increments. However, since the 1st respondent was removed from service on 24.08.1992, and he accrued his annual increment by 03.06.1992, i.e., much before the date of his removal from service, the

1st respondent is entitled to one annual increment as on 03.06.1992, which he accrued while he was in service and before he was removed from service by order dated 24.08.1992. Further, since the 1st respondent was in service up to 14.05.2001, he is entitled to the benefits of regular pay commissions of 01.04.1993 and 01.04.1997.

In that view of the matter, the impugned order of the Tribunal is liable to be modified, and is accordingly modified to the following effect:

The 1st respondent-workman is entitled to the annual increment as on 03.06.1992, which he accrued while he was in service and much before he was removed from service by order dated 24.08.1992. He shall be given the benefit of the pay revisions of the years 1993 and 1997, and his pay shall be revised and fixed as per the recommendations of the said pay revision commissions, and the amounts, which the 1st respondent would be entitled, shall be paid to him within a period of two months from the date of receipt of a copy of this order.

With the above modification, the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Date: 28.09.2006
Nsr/lsl

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1 2003 (1) LLJ 816